

**R523. Human Services, Substance Abuse and Mental Health.**

**R523-24. Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration.**

**R523-24-1. Authority, Intent, and Scope.**

(1) These rules are adopted under the authority of Section 62A-15-401 authorizing the Division of Substance Abuse and Mental Health to administer the Alcohol Training and Education Seminar Program.

(2) The intent of statute and rules is to require every person to complete the Seminar who sells or furnishes alcoholic beverages to the public for off premise consumption in the scope of the person's employment with a general food store or similar business.

(3) These rules include:

- (a) curriculum content standards,
- (b) seminar provider standards,
- (c) provider certification process;
- (d) the ongoing activities of providers, and
- (e) the process for approval, denial, suspension and revocation of provider certification.

**R523-24-2. Definitions.**

(1) "Approved Curriculum" means a provider's curriculum which has been approved by the Division in accordance with these rules.

(2) "Certification" means written approval from the Division stating a person or company has met the requirements to become a seminar provider.

(3) "Director" means the Director of the Division of Substance Abuse and Mental Health.

(4) "Division" means the Division of Substance Abuse and Mental Health.

(5) "Manager" means a person chosen or appointed to manage, direct, or administer the operations at the premises of a licensee. A manager may also be a supervisor.

(6) "Provider" means an individual or company who has had their curriculum approved and certified by the Division.

(7) "Seminar" means the Off Premise Alcohol Training and Education Seminar.

(8) "Supervisor" means an employee who, under the direction of a manager as defined above if the business establishment employs a manager, or under the direction of the owner or president of the corporation if no manager is hired, directs or has the responsibility to direct, transfer, or assign duties to employees who actually sell or furnish alcoholic beverages to customers for off premise consumption

(9) "Retail employee" (clerk or supervisor) means any person employed by a general food store or similar business and who is engaged in the sale of or directly supervises the sale of beer to consumers for off premise consumption.

**R523-24-3. Provider Certification Application Procedure.**

(1) A provider seeking first-time certification shall make application to the Division at least 30 days prior to the first

scheduled seminar date. A provider seeking recertification to administer the seminar shall make application to the Division at least 30 days prior to expiration of the current certification.

(2) Any seminar conducted by a non-certified provider shall not meet the retailer training requirements authorized under Section 62A-15-401.

(3) All application forms shall be reviewed by the Division. The Division shall determine if the application is complete and in compliance with Section 62A-15-401 and these rules. If the Division approves the application and curriculum, and determines the provider has met all other requirements, the Division shall certify the provider.

(4) Within 30 days after the Division has taken action, the Division shall officially notify the applicant of the action taken: denial, approval, or request for further information, and notification of the action taken shall be forwarded in writing to the applicant. If an application for recertification requires additional information or corrective action, a provider may continue to conduct seminars for 30 days from the date of notification. If the provider has not resolved the action required with the Division by that date, the provider is no longer certified to provide the seminar and must cease until all actions are approved by the Division.

#### **R523-24-4. Provider Responsibilities.**

(1) For each person completing the seminar, the provider shall submit to the Division the name, social security number, expiration date and test results indicating pass or fail, and the required fee, within 30 days of the completion of the seminar.

(2) Each person who has completed the seminar and passed the provider-administered and Division-approved examination shall be approved as a retail employee for a period which begins at the completion of the seminar and expires five years from that date.

(3) The provider shall issue a certification card to the retail employee. The card shall contain at least the name of the retail employee and the expiration date. The provider shall be responsible for issuing any duplicates for lost cards.

#### **R523-24-5. Retail Employee Responsibilities.**

(1) A retail employee is required within 30 days of employment by a general food store or similar business to complete and pass the Seminar.

(2) For retail employees who have been certified prior to the implementation of SB 58 Substitute Alcoholic Beverage Amendments- Eliminating Sales to Youth--Knudson 2006, Certification will remain in effect until January, 2008 under the following stipulations:

(a) the provider under which the retailer was trained must submit their curriculum to the Division and obtain certification for the program.

(b) the provider must submit a plan to educate those previously trained about the new administrative penalties outlined in the legislation, and the plan is to be approved by the Division.

**R523-24-6. Division Responsibilities.**

The Division shall maintain the list of retail employees who have completed the Seminar and provide this information to licensing agencies and licensed general food stores of similar businesses.

**R523-24-7. Approved Curriculum.**

(1) Each provider must have a curriculum approved by the Division. This curriculum must provide at least sixty minutes of classroom instruction both for original certification and for any and all re-certifications. The contents of an approved curriculum shall include the following components:

- (a) alcohol as a drug;
- (b) alcohol's effect on the body and behavior including education on the effects of alcohol on the developing youth brain, which information shall be provided by the Division;
- (c) recognizing the problem drinker or signs of intoxication;
- (d) an overview of state laws related to responsible beverage sale as determined in consultation with the Department of Alcoholic Beverage Control, which information shall be provided by the Division;
- (e) statistics identifying the underage drinking problem, which information provided by the Division;
- (f) discussion of criminal and administrative penalties for salesclerks and retail stores for selling beer to underage and intoxicated persons;
- (g) strategies commonly used by minors to gain access to alcohol;
- (h) process for checking ID, for example the FLAG system: Feel Look, Ask, Give Back);
- (i) policies and procedures to prevent beer purchases by intoxicated individuals; and
- (j) techniques for declining a sale including rehearsal and practice of these techniques using face-to-face role play.

**R523-24-8. Examination.**

The examination shall include questions from each of the curriculum components identified in Section R523-24-7. The examination will be submitted for approval with the rest of the provider application.

**R523-24-9. Alcohol Training and Education Seminar Provider Standards.**

- (1) The Division may certify a provider applicant who:
  - (a) identifies all program instructors and instructor trainers and certifies in writing that they:
    - (i) have been trained to present the course material, and
    - (ii) that they have not been convicted of a felony or of any violation of the laws or ordinances concerning alcoholic beverages, within the past five years;
  - (b) agrees to notify the Division in writing of any changes in instructors and submit the assurances called for in Subsection

R523-24-9(a) for all new instructors;

(c) can show adequate facilities, instructional equipment and materials, personnel, and financial resources to provide a successful program for the length of time the license is in effect; and

(d) will establish and maintain course completion records.

**R523-24-10. Grounds For Denial, Corrective Action, Suspension, and Revocation.**

(1) The Division may deny, suspend or revoke certification if:

(a) the provider or applicant violates these rules, or

(b) the applicant fails to correctly complete all required steps of the application process as determined by these rules or other rules or statutes referenced in these rules; or

(c) a provider whose certification has been previously denied, suspended or revoked has reapplied without correcting the problem that resulted in the denial, suspension or revocation.

**R523-24-11. Corrective Action.**

(1) If the Division becomes aware that a provider is in violation of these rules or other rules or statutes referenced in these rules:

(a) within 30 days after becoming aware of the violation, the Division shall identify in writing the specific areas in which the provider is not in compliance and send written notice to the provider.

(b) within 30 days of notification of noncompliance, the provider shall submit a written plan for achieving compliance. The provider may be granted an extension.

**R523-24-12. Suspension and Revocation.**

(1) The Director or designee may suspend the certification of a provider as follows:

(a) When a provider fails to respond in writing to areas of noncompliance identified in writing by the Division within the defined period. The defined period is 30-days plus any extensions granted by the Division.

(b) When a provider fails to take corrective action as agreed upon in its written response to the Division.

(c) When a provider fails to allow the Division access to information or records necessary to determine the provider's compliance under these rules and referenced rules and statutes.

(2) The Director or designee may revoke certification of a provider as follows:

(a) A provider or its authorized instructors continue to provide the Seminar while the provider is under a suspended certification.

(b) A provider fails to comply with corrective action while under a suspension.

(c) A program has committed a second violation which constitutes grounds for suspension when a previous violation resulted in a suspension during the last 24 months.

**R523-24-13. Procedure for Denial, Suspension, or Revocation.**

(1) If the Division has grounds for action under these rules, or as required by law, and intends to deny, suspend or revoke certification of a provider, the steps governing the action are as follows:

(a) The Division shall notify the applicant or provider by personal service or by certified mail, return receipt requested, of the action to be taken. The notice shall contain reasons for the action, to include all statutory or rule violations, and a date when the action shall become effective.

(b) The provider may request an informal hearing with the Director within ten calendar days. The request shall be in writing. Within ten days following the close of the hearing, the Director shall inform the provider or applicant in writing as required under Section 63-46b-5. The provider may appeal to the Department of Human Services Office of Administrative Hearing as provided for under Section 63-46b-5.